

DEPARTMENT OF ECOLOGY

IN THE MATTER OF COMPLIANCE BY)
PACIFIC WOOD TREATING COMPANY)
with Chapter 70.105 RCW and the)
Rules and Regulations of the)
Department of Ecology)

NOTICE OF PENALTY
INCURRED AND DUE
No. DE 83-284

Wa 6906
6483
4C

To: Pacific Wood Treating Company
111 West Division Street
Ridgefield, WA 98642

Elmer Muffett
Ridgefield Brick and Tile
3510 N.W. 289th St.
Ridgefield, WA 98642

Notice

Notice is hereby given that you have incurred a penalty in the amount of \$10,000.00 under the provisions of RCW 70.105.080.

Findings

Pacific Wood Treating Company (PWT) has operated an unpermitted dangerous waste management facility for the disposal of a listed dangerous waste (K001) since 1978. The disposal facility, known as Ridgefield Brick and Tile (RBT), located near the intersection of N.W. 289th Street and N.W. 31st Avenue, Ridgefield, WA, is owned by Elmer C. Muffett. PWT, located at 111 West Division Street, Ridgefield, WA, and Elmer Muffett failed to:

1. Notify the Washington Department of Ecology (WDOE) and the U.S. Environmental Protection Agency (EPA) of their activity at this site;
2. Submit a Part A permit application for the RBT site.

Although the WDOE and EPA acknowledge your statement that PWT's intent was to include the RBT site in PWT's notification and Part A permit application, dated August 11, 1980 and November 20, 1980, respectively, those submittals do not qualify the RBT site for interim status for the following reasons:

1. The Part A permit application packet clearly states that noncontiguous properties require separate Part A applications.
2. RBT did not sign as owner on PWT application.
3. The RBT's site was not indicated on PWT's Part A application site map (Section IX).
4. PWT has not complied with any of the interim status standards as per Chapter 173-300-310 through 400 for this site.



Mitigation

The penalty assessed herein shall be due and payable thirty (30) days after your receipt of this Notice unless you submit an Application for Relief from Penalty to the Department of Ecology. An Application for Relief from Penalty may be submitted on the enclosed form; you may also attach any other material that you believe relevant to your Application. An Application for Relief from Penalty must be submitted to the department within fifteen (15) days after your receipt of this Notice. An Application for Relief from Penalty must be signed and sworn on oath before a notary public. You will be duly notified by the department of its action on your Application.

Terms

The Department of Ecology may grant you relief from the penalty imposed herein on whatever terms the department deems to be in the best interests of carrying out the purposes of Chapter 70.105 RCW. The department thus notifies you that your Application for Relief from Penalty will be considered only if you commit to the following and the department is convinced that compliance is imminent.

1. Within 10 days after the receipt of this Notice, submit a letter of intent as to the continued operation of the RBT site. Should you elect to continue to operate the site, a final dangerous waste permit must be secured before any further activity is allowed and a Part B permit application will be called immediately by EPA.
2. Should you elect to close the RBT site, you must:
 - a. Submit a ground water monitoring plan capable of determining the facility's impact on the quality of ground water in the uppermost aquifer containing those elements stated in 40 CFR Subpart F, and a schedule of implementation, by July 11, 1983 for review and approval. The plan is to commence within 10 days of approval.
July 18, 1983
 - b. Submit a closure plan, post-closure plan (if applicable) and schedule for implementation, for review and approval by July 30, 1983 with a draft submitted by July 13, 1983 for initial comments. The plans should address those elements contained in 40 CFR Part 265 Subpart G and 40 CFR 265.310. Implementation of the plan is to commence within 30 days after notice to proceed is received.
July 20, 1983
 - c. Submit evidence of financial assurance to fund site closure, post-closure, and addressing those elements contained in 40 CFR 265.143 and 265.145, appropriate monitoring and testing, within 10 days after notice to proceed with closure is received.

Pacific Wood Treating Company
and Elmer Muffett
Page three

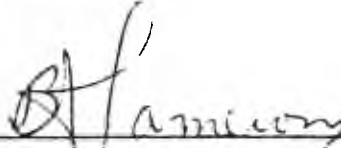
Each submittal is to be concurrently sent to the following for review:

Tom Eaton
State of Washington
Department of Ecology
7272 Clean Water Lane, MS LU-11
Olympia, WA 98504

George Hofer
U.S. Environmental Protection
Agency - Region X
1200 Sixth Avenue, M/S 532
Seattle, WA 98101

Approval of said submittals will be coordinated and issued by the WDOE.

DATED at Olympia, Washington



Bruce A. Cameron
Assistant Director
Department of Ecology
State of Washington

- (1) We do not acknowledge I.S.
- (2) DOE Order orders compliance w/ ISS. -- Ours orders closure:
- (a) either as a storage facility, or
 - (b) as a disposal facility... with appropriate ^{Closure &} post closure assurances:
 - (i) g.w. monitoring
 - (ii) post closure financial assurance
 - (iii) monitoring and maintenance
- (3) Penalty should not be mitigated "in full" as suggested. Either the facility qualified for I.S. or it didn't. We say it didn't; however the penalty for failure to comply w/ ~~applicable~~ ISS. would be higher than our \$22,500. Therefore, either way, a penalty is in order, and not all of it should be mitigated. Our Policy says minimum penalty should be $0.6 \times 22,500$ or \$13,500.
- (4) Under ^{the} proposed DOE Order they do not specify what the criteria (standards) against which the various documents will be judged. The g.w. monitoring plan should be equivalent (or be based on) to the 265 Subpart F requirements. Similarly the closure plan should be consistent with and equivalent to 265 requirements. In their item 4, there is no "approval" indicated. PWT is only required to submit for review. The financial assurance

requirement is also not specified. In fact it says nothing about post closure monitoring ... it addresses only post closure "care" -

(5) There are no outside dates or even closure milestones established.

(6) Our position -- since not an I.S. site we can forego certain I.S. for closure, such as public comment period on closure plan, if we elect to. If this site is leaking it should be properly closed ~~ASAP~~ ASAP (not later than this summer) [not next summer.]

I'm still prepared to recommend going with our order if we can't get tighter commitments and better defined requirements.

If we don't issue ours:

(7) We want to review all plans, documents, proposals, waivers, etc. resulting from the DOE order.

(8) Item 4, closure plan & post closure should be within 30 days (due 30) and allow for DOE & EPA review and approval before they secure financial assurance for same, otherwise if plans are not approved & the financial assurance is not in place